UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

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ANTHONY GALLEY, Deceased, by and through his Co-Successors in Interest, P.P. and B.P., minors, through their mother and Next Friend, Christina O'Neil, Individually and as Co-Successors in Interest for ANTHONY GALLEY, Deceased,

Plaintiffs,

v.

COUNTY OF SACRAMENTO, a public entity; FORMER SACRAMENTO COUNTY SHERIFF SCOTT R. JONES, in his individual capacity; Jail Commander ANTHONY PAONESSA; Jail Medical Director VEER BABU, M.D.; MAXIM HEALTHCARE SERVICES, INC. dba MAXIM STAFFING SOLUTIONS, a Maryland Corporation; MAXIM HEALTHCARE STAFFING SERVICES, Inc., a Maryland Corporation; ERICA WOODS, R.N.; and DOES 1-20; individually, jointly, and severally,

Defendants.

No. 2:23-cv-00325 WBS AC

MEMORANDUM AND ORDER RE: COUNTY DEFENDANTS' MOTION TO DISMISS

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P.P. and B.P., the minor children of decedent Anthony Galley, bring this action against the County of Sacramento, Former Sacramento County Sheriff Scott Jones, Jail Commander Anthony Paonessa, and Jail Medical Director Doctor Veer Babu (collectively the "County Defendants"), as well as Maxim Healthcare Services, Inc., Maxim Healthcare Staffing Services, Inc., and Nurse Erica Woods (collectively the "Medical Defendants"), for violations of both federal and state law in connection with Mr. Galley's death while detained in the Sacramento County Jail. (See generally First Am. Compl. (Docket No. 20).)

Plaintiffs assert claims for deliberate indifference to serious medical need and wrongful interference with familial relationships under 42 U.S.C. § 1983 for violations of the First and Fourteenth Amendments (Claim 1); Monell liability under 42 U.S.C. § 1983 (Claim 2); the Tom Bane Act, Cal. Civ. Code § 52.1 (Claim 3); negligence (Claim 4); failure to furnish or obtain medical care for prisoner, Cal. Gov. Code § 845.6 (Claim 6); Title II of the American with Disabilities Act ("ADA"), 42 U.S.C. § 12132, and the Rehabilitation Act (the "Rehab Act"), 29 U.S.C. § 794 (Claim 7).[1] (See id.)

Before the court is the County Defendants' motion to dismiss. (Mot. (Docket No. 23).)

[1] The First Amended Complaint appears to misnumber plaintiffs' claims, as there is no fifth claim. Thus, while there are seven labeled claims, plaintiffs in fact only bring six claims. To prevent confusion, this order will refer to the claims as they are labeled in the First Amended Complaint.

I. Factual Allegations[2]

Decedent Anthony Galley was the 37-year-old father of P.P. and B.P. (First Am. Compl. ¶ 21.) He had a longstanding history of alcohol, heroin, and benzodiazepine addition. (Id. ¶ 24.) He also had previously been detained in the Sacramento County Jail. (Id.) During these previous periods of detention, Mr. Galley informed jail staff of his alcohol and drug dependence. (Id.) He also informed staff of his history of serious drug and alcohol withdrawal symptoms, including seizures. (Id.) As a result of his alcoholism and withdrawal history, Mr. Galley was always placed on detoxification and withdrawal protocols. (Id.) This information is reflected in Mr. Galley's jail medical records. (Id.)

On or about February 13, 2022, Mr. Galley was arrested and brought to the Sacramento County Jail. (Id. ¶ 22.) During intake, he was medically screened by Nurse Erica Woods. (Id. ¶ 23.) Mr. Galley informed Nurse Woods that he had used alcohol within the last 24 hours, had a history of alcohol use, and had a history of alcohol withdrawal, along with other information about his history of alcoholism. (Id.)

As a result of Mr. Galley's self-reporting and his prior jail medical records, Nurse Woods was allegedly required to put Mr. Galley on immediate detoxification and alcohol withdrawal protocols, which include repeated monitoring and assessments. (Id. ¶ 25.) However, Nurse Woods did not put Mr. Galley into these protocols. (Id.)

[2] The court takes the allegations of the First Amended Complaint as true.

Mr. Galley requested to be seen by jail medical staff but was informed that, since he had already been seen at intake, he could not be seen again until after processing. (Id. ¶ 27.) Mr. Galley was then placed in an upstairs jail housing unit. (Id.)

Two days later, Mr. Galley suffered a seizure in a room where he and other inmates had been brought to wait for their classification interviews. (Id.) The other inmates attempted to get the attention of jail house staff. (Id.) Despite their attempts to do so, including banging on the windows and screaming for help, approximately thirty minutes elapsed between Mr. Galley's seizure and the arrival of any jail deputies. (Id.)

Two jail nurses took Mr. Galley's vitals and administered Narcan, and deputies performed CPR and utilized an Automated External Defibrillator. (Id. ¶ 28.) The Sacramento Fire Department arrived approximately ten minutes after the deputies responded to the inmates call for help. (Id.) The Fire Department brought Mr. Galley to a nearby hospital where he was pronounced dead. (Id.)

As a result of Mr. Galley's death and plaintiffs' inability to access information concerning his death, such as his jail custody records and autopsy photos, P.P. and B.P. initiated this lawsuit. (Id. ¶ 30.)

II. Legal Standard

Federal Rule of Civil Procedure 12(b)(6) allows for dismissal when the plaintiff's complaint fails to state a claim upon which relief can be granted. See Fed. R. Civ. P. 12(b)(6). The inquiry before the court is whether, accepting the

allegations in the complaint as true and drawing all reasonable inferences in the plaintiff's favor, the complaint has alleged "sufficient facts . . . to support a cognizable legal theory," Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001), and thereby stated "a claim to relief that is plausible on its face," Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). In deciding such a motion, all material allegations of the complaint are accepted as true, as well as all reasonable inferences to be drawn from them. Id.

III. Discussion

In their motion to dismiss, the County Defendants advance four arguments: (1) plaintiffs lack standing; (2) the County Defendants are immune from liability under various state laws; (3) plaintiffs' Tom Bane Act claim, as alleged, fails because plaintiffs did not allege any facts showing the County Defendants had the "specific intent" to deprive Mr. Galley of medical care; and (4) plaintiffs' ADA and Rehab Act claim fails as a matter of law because plaintiffs did not allege any facts showing the County Defendants discriminated against Mr. Galley because of his disability. (See generally Mot.) The court will address each argument below.

A. Standing

The County Defendants argue that P.P. and B.P. do not have standing because they did not seek appointment of a court approved guardian ad litem under Local Rule 202. (Mot. at 3-4.) Local Rule 202 provides:

> Upon commencement of an action or upon initial appearance in defense of an action by or on behalf of a minor or incompetent person, the attorney representing

> the minor or incompetent person shall present (1) appropriate evidence of the appointment of a representative for the minor or incompetent person under state law or (2) a motion for the appointment of a guardian ad litem by the Court, or, (3) a showing satisfactory to the Court that no such appointment is necessary to ensure adequate representation of the minor or incompetent person.

L.R. 202 (emphasis added) (citing Fed. R. Civ. P. 17(c)).

Federal Rule of Civil Procedure 17(c)(2) permits a minor "who does not have a duly appointed representative [to] sue by a next friend . . . ." In order to satisfy "next friend" standing, a "next friend" must: (1) "provide an adequate explanation -- such as inaccessibility, mental competence, or other disability -- why the real party in interest cannot appear on his own behalf . . ."; and (2) "be truly dedicated to the interests of the person on whose behalf he seeks to litigate." Whitmore v. Arkansas, 495 U.S. 149, 163-64 (1990) (citations omitted); see also Coalition of Clergy v. Bush, 310 F.3d 1153, 1159-60 (9th Cir. 2002). The "next friend" should "have some significant relationship with the real party in interest." Whitmore, 495 U.S. at 164 (citations omitted). "The burden is on the 'next friend' clearly to establish the propriety of his status and thereby justify the jurisdiction of the court." Id. (citations omitted).

Here, minor plaintiffs P.P. and B.P.'s "next friend" is Christina O'Neil. As Ms. O'Neil stated in her co-successor in interest declarations filed on behalf of her minor children, she is the minor plaintiffs' mother and legal guardian until they

reach the age of eighteen.[3] (See Docket Nos. 7, 8.) As both their mother and legal guardian, the court believes that Ms. O'Neil will "be truly dedicated to the interests of" the minor plaintiffs. See Whitmore, 495 U.S. at 163-64 (citations omitted). The court is therefore satisfied that the appointment of a guardian ad litem is not "necessary to ensure adequate representation of the minor[s]." See L.R. 202. Accordingly, the court will reject the motion to dismiss for lack of standing.[4]

B. Immunity

The County Defendants advance three arguments that they are immune from liability under various state laws: (1) the County is immune from direct liability under Cal. Gov. Code § 844.6(a)(2); (2) Jones, Paonessa, and Babu are immune from liability for negligence because their conduct constitutes "discretionary acts" under Cal. Gov. Code § 820.2; and (3) Jones, Paonessa, and Babu are immune from being held vicariously liable for negligence under Cal. Gov. Code § 820.8. (Mot. at 5, 8-11.) As explained below, the court rejects all three arguments.

1. Immunity From Direct Liability

Plaintiffs assert two state law claims directly against the County: the Tom Bane Act, Cal. Civ. Code § 52.1 (Claim 3), and Cal. Gov. Code § 845.6 (Claim 6).[5] First, a Bane Act claim

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[3] P.P. and B.P. are 14 years old and 8 years old, respectively. (First Am. Compl. ¶¶ 3, 4.)

[4] The court also denies defendants' request to alter the caption of the First Amended Complaint and the docket (see Mot. at 4), which already indicates that P.P. and B.P. are the sole plaintiffs.

[5] County Defendants also contend that plaintiffs cannot

may be brought directly against a municipality. See Sanchez v. City of Fresno, 914 F. Supp. 2d 1079, 1117 (E.D. Cal. 2012) (O'Neill, J.) ("[S]everal federal courts interpreting the [Bane Act] have concluded municipalities do fall within its purview"); see also id. (collecting cases); Spath v. Cnty. of Santa Clara, --- F. Supp. 3d ---, 2023 WL 2989042, at *7 (N.D. Cal. Apr. 17, 2023) (citations omitted). Thus, plaintiffs may assert a Bane Act claim directly against a municipality. The court will address the County Defendants' other arguments against plaintiffs' Bane Act claim in a later section below.

Second, Cal. Gov. Code § 845.6 ("failure to furnish or obtain medical care for prisoner") is a statutory exception to immunity. See Cal. Gov. Code § 844.6(a)(2) ("Notwithstanding any provision of this part, except as provided in this section and in Sections 814, 814.2, 845.4, and 845.6, or in Title 2.1 (commencing with Section 35000) of Part 3 of the Penal Code, a public entity is not liable for . . . [a]n injury to any prisoner.") Under Cal. Gov. Code § 845.6, a public entity may be held liable for a failure to summon medical care but may not be held liable for negligence in providing care. See Castaneda v. Dep't of Corrs. & Rehab., 212 Cal. App. 4th 1051, 1071 (2nd Dist. 2013) (finding § 845.6 did not apply, and thus the state was immune, where plaintiff sustained injuries because of a decision to not give him a biopsy while in custody) (citation omitted).

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plead negligence or wrongful death claims against the County based on inadequate staffing, facilities, or services. (Mot. at 5.) However, plaintiffs do not bring negligence or wrongful death claims against the County. (See First Am. Compl. ¶¶ 36, 71.)

Because plaintiffs seek to hold the County Defendants liable for failure to summon medical care, as opposed to negligence in providing care, the statutory immunity provision in § 845.6 does not apply. Thus, plaintiffs may assert a claim under Cal. Gov. Code § 845.6 directly against the County.

2. Immunity Under Cal. Gov. Code § 820.2

Cal. Gov. Code § 820.2 provides that "a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused." To determine whether discretionary immunity applies, courts must "distinguish between public employees' policy decisions and their operational, or ministerial, decisions." AE ex rel. Hernandez v. Cnty. of Tulare, 666 F.3d 631, 639 (9th Cir. 2012) (citing Barner v. Leeds, 24 Cal. 4th 676, 684-85 (2000)). While "[q]uasi-legislative decisions" receive immunity, "there is no basis for immunizing lower level decisions that merely implement a basic policy already formulated." Id. (citation and internal quotations omitted). "[G]overnment defendants have the burden of establishing that they are entitled to immunity for an actual policy decision made by an employee who 'consciously balance[ed] risk and advantages." Id. (citation and quotations omitted).

The County Defendants argue that because Jones, Paonessa, and Babu possessed discretionary responsibilities inherent in their respective positions, they are immune under Cal. Gov. Code § 820.2 and, because they are immune, the County is immune under Cal. Gov. Code § 815.2. (Mot. at 9.) The court

disagrees. "The fact that an employee normally engages in 'discretionary activity' is irrelevant if, in a given case, the employee did not render a considered decision." AE, 666 F.3d at 639 (citation and quotations omitted). Nothing in either the County Defendants' motion or the First Amended Complaint suggests that any of these individual defendants "consciously balance[ed] risk and advantages" in any decisions related to Mr. Galley's death. See id. The County Defendants failed at this stage of the proceeding to sustain their burden and, therefore, the court will not dismiss the state claims against the individual defendants under § 820.2.[6]

3. Immunity Under Cal. Gov. Code § 820.8

Cal. Gov. Code § 820.8 provides that "a public employee is not liable for an injury caused by the act or omission of another person." Here, however, plaintiffs allege that Jones, Paonessa, and Babu are liable because of their personal conduct. (See Opp'n at 14.) Plaintiffs thus do not rely on vicarious liability. Therefore, Cal. Gov. Code § 820.8 does not apply. See Rodriguez v. Cnty. of L.A., 891 F.3d 776, 799 (9th Cir. 2018) ("§ 820.8 is inapplicable because . . . appellees do no rely on vicarious liability, but, rather, rely on the supervisors' culpable action or inaction that proximately caused their injuries."); J.M. v. Parlier Unified Sch. Dist., No. 1:21-cv-0261 AWI BAM, 2021 WL 5234770, at *3 (E.D. Cal. Nov. 10, 2021) ("§

[6] Because Jones, Paonessa, and Babu are not entitled to immunity under Cal. Gov. Code § 820.2, the County is not entitled to immunity under Cal. Gov. Code § 815.2(b). See Cal. Gov. Code § 815.2(b) ("[A] public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.").

820.8 does not apply because the claims against [defendant] are based on his own supervision and negligence.").

For the reasons explained above, the court finds that the County Defendants are not immune from liability under California state law. Accordingly, the court will deny the motion to dismiss on immunity grounds.

C. Tom Bane Act[7] (Claim 3)

A Tom Bane Act claim requires specific intent to violate the plaintiff's rights. Reese v. Cnty. of Sacramento, 888 F.3d 1030, 1043 (9th Cir. 2018) ("[T]he Bane Act requires . . . a specific intent to violate the arrestee's right to freedom from unreasonable seizure.") (citing Cornell v. City & Cnty. of S.F., 17 Cal. App. 5th 766, 801 (1st Dist. 2017)). "[S]pecific intent" may be shown by demonstrating that the officer "acted . . . 'in reckless disregard of constitutional or statutory prohibitions or guarantees.'" See Cornell, 17 Cal. App. 5th at 803-04 (citation omitted); Reese, 888 F.3d at 1045 ("[A] reckless disregard for a person's constitutional rights is evidence of a specific intent to deprive that person of those rights.").

[7] Plaintiffs assert their Bane Act claim as both a wrongful death action and a survival action. (First Am. Compl. ¶ 65.) A Bane Act claim cannot be brought as a wrongful death claim. See Bay Area Rapid Transit Dist. v. Superior Court, 38 Cal. App. 4th 141, 141 (1st Dist. 1995) (holding that "the [Tom] Bane Act is simply not a wrongful death provision" but "clearly provides for a personal cause of action for the victim"). However, a claim under the Bane Act can be brought for survival actions. See Medrano v. Kern Cnty. Sheriff's Off., 921 F. Supp. 2d 1009, 1016 (E.D. Cal. 2013) (Ishii, J.); D.G. v. Cnty. of Kern, 1:15-cv-0760 JAM JLT, 2016 WL 6072362, at *1 (E.D. Cal. Oct. 13, 2016); Harmon v. Cnty. of Sacramento, Case No. 2:12-cv-02758 TLN, 2016 WL 319232, at *15-16 (E.D. Cal. Jan. 27, 2016); Dela Torre v. City of Salinas, Case No. C-09-00626 RMW, 2010 WL 3753762, at *7 (N.D. Cal. Sep. 17, 2010).

The County Defendants argue that plaintiffs' Bane Act claim must be dismissed because plaintiffs did not allege the County Defendants had the "specific intent" to deprive Mr. Galley of medical care. (Mot. at 8.) They also argue that plaintiffs' Bane Act claim fails because there are no allegations that any County Defendants were present during Mr. Galley's detention or had any specific knowledge of Mr. Galley's medical state. (Id.) The court rejects both arguments.

First, multiple district courts have adopted the position that "a prisoner who successfully proves that prison officials acted or failed to act with deliberate indifference to his medical needs . . . adequately states a claim for relief under the Bane Act." M.H. v. Cnty. of Alameda, 90 F. Supp. 3d 889, 899 (N.D. Cal. 2013) (cited with approval by Cornell, 17 Cal. App. 5th at 802 n. 31). See, e.g., Scalia v. Cnty. of Kern, 308 F. Supp. 3d 1064, 1084 (E.D. Cal. 2018) (O'Neill, J.); Lapachet v. Cal. Forensic Med. Grp., Inc., 313 F. Supp. 3d 1183, 1195 (E.D. Cal. 2018) (Drozd, J.); Estate of Neil v. Cnty. of Colusa, No. 2:19-cv-4291745 TLN DB, 2022 WL 4291745, at *9 (E.D. Cal. Sep. 16, 2022); Polanco v. California, No. 21-cv-06516 CRB, 2022 WL 1539784, at *4 (N.D. Cal. May 16, 2022); Shoar v. Cnty. of Santa Clara, No. 22-cv-00799 WHA, 2022 WL 10177673, at *3 (N.D. Cal. Oct. 17, 2022). Second, several courts have held that a Bane Act claim can be based on supervisory conduct. See Johnson v. Baca, No. 13-cv-04496 MMM, 2014 WL 12588641, at *16 (C.D. Cal. Mar. 3, 2014) (collecting cases); Neuroth v. Mendocino Cnty., No. 15-cv-03226-NJV, 2016 WL 379806, at *7 (N.D. Cal. Jan. 29, 2016).

Claims for violations of the right to adequate medical care brought by pretrial detainees against individual defendants under the Fourteenth Amendment must be evaluated under an objective deliberate indifference standard.[8] See Gordon v. Cnty. of Orange, 888 F.3d 1118, 1124–25 (9th Cir. 2018). Pretrial detainees alleging that jail officials failed to provide constitutionally adequate medical care must show:

> (1) The defendant made an intentional decision with respect to the conditions under which plaintiff was confined [including a decision with respect to medical treatment];
>
> (2) Those conditions put the plaintiff at substantial risk of suffering serious harm;
>
> (3) The defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved -- making the consequences of the defendant's conduct obvious; and
>
> (4) By not taking such measures, the defendant caused plaintiff's injuries.

Id. at 1125.

Here, in support of their Bane Act claim, plaintiffs allege, for example, that the County Defendants were deliberately indifferent by "[m]aking the conscious choice not to consistently provide the required observation for inmates at high risk of alcohol withdrawal" and "instituting and maintaining the [County's] customs, policies and practices." (First Am. Compl. ¶

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[8] This standard is different from the inquiry applicable to convicted detainees arising under the Eighth Amendment. The inquiry under the Eighth Amendment involves a subjective standard. See Gordon, 888 F.3d 1118, n.4 (9th Cir. 2018) (explaining that the Eighth Amendment standard requires that the "prison official must subjectively have a culpable state of mind").

64). Although plaintiffs only assert their Fourteenth Amendment deliberate indifference claim against the Medical Defendants (see FAC ¶¶ 36-44), the court finds such allegations sufficient to support a Bane Act claim for deliberate indifference to serious medical needs. See M.H., 90 F. Supp. 3d at 899 ("[A] prisoner who successfully proves that prison officials acted or failed to act with deliberate indifference to his medical needs in violation of his constitutional rights . . . adequately states a claim under the Bane Act."). Accordingly, the court will deny the motion to dismiss the Bane Act claim as asserted against the County Defendants.

D. ADA and Rehab Act (Claim 7)

The County Defendants argue that plaintiffs' claims under the ADA and the Rehab Act fail as a matter of law because plaintiffs did allege any facts showing the County Defendants discriminated against Mr. Galley because of his disability.[9] (Mot. at 11.) "To establish a violation of Title II of the ADA, a plaintiff must show that (1) [he] is a qualified individual with a disability; (2) [he] was excluded from participation in or otherwise discrimination against with regard to a public entity's services, programs, or activities; and (3) such exclusion or discrimination was by reason of [his] disability." Lovell v. Chandler, 303 F.3d 1039, 1052 (9th Cir. 2002). "To establish a

[9] Alcoholism may be considered a disability. See 28 C.F.R. § 35.108(b)(2) (including "alcoholism" within the definition of "disability" as a "physical or mental impairment"). The County Defendants do not challenge Mr. Galley's status as a disabled person, and thus the court will assume Mr. Galley has a disability under the ADA and Rehab Act for purposes of deciding this motion.

violation of § 504 of the [Rehab Act], a plaintiff must show that (1) [he] is handicapped within the meaning of the [Rehab Act]; (2) [he] is otherwise qualified for the benefit or services sought; (3) [he] was denied the benefit of services solely by reason of [his] handicap; and (4) the program providing the benefit receives federal financial assistance." Id.[10]

To allege disability discrimination in the provision of inmate services, a plaintiff can plead "either (i) discrimination based on disparate treatment or impact, or (ii) denial of reasonable modifications or accommodations." Atayde v. Napa State Hosp., 255 F. Supp. 3d 978, 1000 (E.D. Cal. 2017) (Drozd, J.) (citing Fortyune v. Am. Multi-Cinema, Inc., 364 F.3d 1075, 1086 (9th Cir. 2004)) (additional citation omitted). To plead a failure to accommodate claim, as plaintiffs do here, "a plaintiff must allege that a public entity knew of plaintiff's disability but failed to provide reasonable accommodations." See id. at 1001 (citation omitted); see also id. at 1003 ("[A] public entity must have knowledge of the individual's disability in order to be liable under the ADA for failure to accommodate.") (quoting Robertson v. Las Animas Cnty. Sheriff's Dep't, 500 F.3d 1185, 1196 (10th Cir. 2007)) (internal quotations omitted).

Here, plaintiffs allege that Mr. Galley's jail medical records from his previous detentions included information

[10] The court will apply the same analysis to the ADA and Rehab Act claim.[10] See Martin v. Cal. Dep't of Veterans Affs., 560 F.3d 1042, 1047 n.7 (9th Cir. 2009) ("Because '[t]here is no significant difference in analysis of the rights and obligations created by the ADA and the Rehabilitation Act,' we have consistently applied 'the same analysis to claims brought under both statutes,' . . . and again do so here.") (citing Zukle v. Regents of Univ. of Cal., 166 F.3d 1041, 1045 n. 11 (9th Cir. 1999)).

regarding his alcoholism and history of severe withdrawals as well as the fact he was placed on detoxification and withdrawal protocols during these previous detentions. (First Am. Compl. ¶ 24.) Plaintiffs further allege that defendants had knowledge of Mr. Galley's disability because he self-reported his condition to Nurse Woods during his initial screening. (Id. ¶ 23.) Moreover, plaintiffs allege that the County Defendants were or should have been aware of the jail's well-known history of failing to properly monitor pretrial detainees for alcohol withdrawal.[11] (Id. ¶¶ 47-51, 95.) The court thus finds plaintiffs have alleged facts sufficient to support a failure to accommodate claim.

In their Reply, defendants contend that plaintiffs' allegations only show negligence and thus are insufficient to support a claim under the ADA and the Rehab Act. (Reply at 6.) Defendants are correct that "courts . . . distinguish[] between claims asserted under the ADA that allege that the medical treatment that a plaintiff received or had access to was inadequate, [and] claims alleging that a plaintiff was discriminatorily precluded from access to medical treatment altogether." Atayde, 255 F. Supp. 3d at 1004 (citation and

[11] As explained by plaintiffs, Mays v. Sacramento County, 2:18-cv-02081 TLN KJN (E.D. Cal.) was a class action lawsuit challenging the conditions in Sacramento County jails. (First Am. Compl. ¶ 47 n.1.) The settlement adopted (the "Mays Consent Decree") required the County to, among other things, issue monitoring reports. (Id.) These monitoring reports all discuss Sacramento County jails' failure to address withdrawal. (See id. ¶¶ 47-51.) The Third Monitoring Report, from October 2022, specifically discussed Mr. Galley's death, describing the incident as "represent[ing] a profound failure to recognize, monitor and treat a patient at risk of severe alcohol withdrawal. The patient was not evaluated by a medical provider in accordance with policy." (Id. ¶ 47.)

quotations omitted). Here, however, plaintiffs have plausibly alleged facts that defendants knowingly denied Mr. Galley accommodations in violation of the ADA and the Rehab Act. See id. at 1001 ("A correctional facility's 'deliberate refusal' to accommodate plaintiff's disability-related needs violates the ADA and the [Rehab Act].") (citation omitted). Accordingly, the court will deny the motion to dismiss plaintiffs' claim under the ADA and the Rehab Act.

IT IS THEREFORE ORDERED that defendants' motion to dismiss (Docket No. 23) be, and the same hereby is, DENIED.

Dated: July 13, 2023

WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE